

REMARKS

The Office Action of January 4, 2010, has been carefully considered.

The claims of record have now been canceled and replaced by a new set of claims 33-46. Claims 33-46 are method claims which replace the apparatus claims, but otherwise correspond to the canceled apparatus claims.

Claims 20-23, 27, 29 and 31 have been rejected under 35 USC 112, 2nd paragraph, as indefinite. Applicants believe that the claims as rewritten overcome the cited objections, and withdrawal of this rejection is requested.

Claims 17-23 have been rejected under 35 USC 102(b) over Samani, claims 17-19 have been rejected under 35 USC 102(b) over Coates et al and claims 17-19 and 24-25 have been rejected under 35 USC 102(e) over Coppes et al.

In addition, claims 28, 29 and 31 have been rejected under 35 USC 103(a) over Samani in view of Le Couedic et al and Senegas.

The prosthesis of the claimed method is defined as elastically flexible in all directions, in order to exploit the inter-laminar gap. In fact, the inter-laminar gap is narrower than the inter-spinous gap, and therefore, a rigid prosthesis would be very difficult to fit within the inter-laminar gap.

The effect is that the inter-laminar placement is much closer to the axis of the vertebrae, and less moment reactions are generated by the prosthesis of the invention in the effort of bearing loads.

The claimed method recites introducing the intervertebral prosthesis into the inter-laminar gap, and fixing the prosthesis by securing said elastic body to adjacent lumbar vertebrae by engaging said engaging means between the laminar arches.

Reference is made to the drawings found the Amendment

filed on September 25, 2009.

Samani discloses inserting a cushioning element in an interspinous position, and not in an interlaminar position. As well known, the spinous processes are much more external with respect to the bone marrow than the interlaminar region. For this reason, a cushioning element placed between the spinous processes can only be a provisional relief for pain, not a definitive prosthesis.

Moreover, the interspinous cushioning element of Samani is flexible in only one direction, i.e. orthogonal to the bend of the cushioning element, which acts substantially as a spring.

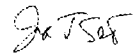
In view of the above, claims 32-44 are novel and inventive over Samani.

Further, the other cited references to Coppes, Coates, Le Couedic and Senegas, do not, individually or taken in combination, disclose or suggest a cushioning element that is both *flexible in all directions* and *inserted in an interlaminar position*.

Withdrawal of these rejections is requested.

In view of the foregoing amendments and remarks, Applicants submit that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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